

In the United States Court of Federal Claims
OFFICE OF SPECIAL MASTERS

No. 07-618V

Filed: September 3, 2014

Not to be Published

TIMOTHY MARK GILTINAN
and KRISTEN ELIZABETH
KELLER-GILTINAN, parents and
natural guardians of B.T.G., a minor,

Petitioners,

v.

SECRETARY OF HEALTH
AND HUMAN SERVICES,

Respondent.

Autism; Failure to Prosecute;
Failure to Follow Court
Orders; Insufficient Proof of
Causation; Dismissal

DECISION¹

On August 20, 2007, Petitioners filed a Petition for Vaccine Compensation in the National Vaccine Injury Compensation Program,² alleging that B.T.G. was injured by a vaccine or vaccines listed on the Vaccine Injury Table. See § 14. I hereby dismiss this petition because Petitioners have failed to prosecute or prove this case.

For more than seven years, Petitioners have failed to produce an expert report in support of their claim. On March 12, 2014, Petitioners were ordered to file an expert report in support of their Petition, by June 26, 2014. On June 27, 2014, Petitioners filed a status report requesting additional time to confer with their medical expert. I issued an Order on July 1, 2014, allowing

¹ Because this unpublished decision contains a reasoned explanation for the action in this case, I intend to post this decision on the United States Court of Federal Claims' website, in accordance with the E-Government Act of 2002, Pub. L. No. 107-347, § 205, 116 Stat. 2899, 2913 (codified as amended at 44 U.S.C. § 3501 note (2006)). In accordance with Vaccine Rule 18(b), petitioner has 14 days to identify and move to delete medical or other information, the disclosure of which would constitute an unwarranted invasion of privacy. If, upon review, I agree that the identified material fits within this definition, I will delete such material from public access.

² The Program comprises Part 2 of the National Childhood Vaccine Injury Act of 1986, Pub. L. No. 99-660, 100 Stat. 3755, codified as amended, 42 U.S.C. §§ 300aa-10 *et seq.* (hereinafter "Vaccine Act" or "the Act"). Hereafter, individual section references will be to 42 U.S.C. § 300aa of the Act.

Petitioners until July 11, 2014, to either file their expert report or show cause why this case should not be dismissed for failure to prosecute the case. On July 11, 2014, Petitioners filed a Response to Order to Show Cause, requesting additional time to allow their medical expert to complete a review of the record of this case. I filed an Order on July 16, 2014, allowing Petitioners until August 4, 2014, to complete that review and file the report of Petitioners' expert. Petitioners did not file an expert report, nor did they file a request for additional time to do so.

On August 7, 2014, I filed another Order to Show Cause, on or before August 21, 2014, as to why this case should not be dismissed for failure to respond to a court order. Petitioners were also advised that failure to follow court orders would result in dismissal of Petitioners' claim. *Tsekouras v. Sec'y, HHS*, 26 Cl. Ct. 439 (1992), *aff'd per curiam*, 991 F.2d 810 (Fed. Cir. 1993); *Sapharas v. Sec'y, HHS*, 35 Fed. Cl. 503 (1996); Vaccine Rule 21(b). Petitioners have not responded.

Accordingly, **this case is dismissed for failure to prosecute and failure to follow court orders. The clerk shall enter judgment accordingly.**

IT IS SO ORDERED.

/s/ George L. Hastings, Jr.
George L. Hastings, Jr.
Special Master